



March/April 2013

From the SDREC Director, Melissa Miller

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The 88th Legislative Session has come to an end with new legislation passing that will affect the Real Estate Licensing Laws. These will go into effect July 1, 2013.

SB 7: An Act to revise certain provisions regarding the registration of a place of business with the Real Estate Commission. SB 7 will update the law to reflect the current industry practice and clarify which address needs to be registered with the Commission depending upon the type of license. It also requires both the licensee and the responsible broker to notify the Commission if that licensee is no longer associated with that address.

SB 64: An Act to revise provisions regarding broker price opinions, comparative market analyses, and appraisals. SB 64, Section 1 will clearly define a "broker price opinion" and "comparative market analysis" versus an "appraisal." There has been some confusion lately regarding this issue where brokers have been performing appraisals when they meant to perform a broker price opinion. This bill will help clarify that confusion. Section 2 will clarify that a broker is allowed to perform a "broker price opinion" or "comparative market analysis."

SB 65 makes it easier to see who qualifies for licensing exemptions from the South Dakota Real Estate Commission. SB 65, Section 1 accomplishes this by repealing obsolete language and clarifying who does not qualify for exemptions. Section 2 adds an exemption for businesses who take money to list real estate for sale either in print or online media.

SB 66: An Act to revise the style and form of certain provisions, to amend certain provisions to streamline and clarify, and to repeal certain obsolete and unnecessary provisions pertaining to the Real Estate Commission. SB 66 is a clean-up bill. There is clarification language, gender clean-up, repealing of obsolete law.

I want to give a big thank you to the staff and members of the South Dakota Association of REALTORS® for the invitation to the Chili/Oyster Stew Feed. Delicious!

In the appraiser section of this newsletter, you will find an article titled "[Communicating With an Appraiser](#)". Please take time to read this article as we hear from the appraiser industry that there still seems to be some misconceptions out there regarding what a real estate agent can and cannot do when communicating with the appraiser in a real estate transaction.

Spring Caravan is coming up soon. Please get registered early.

Have a wonderful spring season!

South Dakota Real Estate Commission

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Executive Director
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Pierre, SD 57501
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South Dakota Appraiser Certification Program

Sherry Bren
Executive Director
445 E. Capitol Ave.
Pierre SD 57501
Phone: 605.773.4608
Fax: 605.773.5369

Register NOW for the 2013 Spring Education Caravan

The South Dakota Real Estate Commission is proud to bring Len Elder and Course Creators back to South Dakota for the Spring Education Caravan! This six-hour course will focus on two areas: License Law and Legal Issues.

This course will feature:

Safe Sailing Through the South Dakota Real Estate Commission Laws and Rules

Avoid the pitfalls and risks of violating SD License Law. Len will help you identify today's current hot buttons and provide you with the up to date information you need to know about regulatory compliance. Know the issues that face you as a real estate professional and leave class with practical tips, ideas and solutions to those issues.

The Games We Play - An Interactive Look At Legal Issues

It seems the real estate industry just keeps getting more and more complex. You never knew that learning legal issues could be this fun and exciting. Come and join us for an interactive afternoon presented in game show format as we discover just how much we do and do not know about the legal questions that face us today as practicing real estate professionals.

Education Approval: This course is approved for six hours Required continuing education and 6 hours of Postlicensing Period 2 Education in the area of License Law.

Caravan Dates and Locations

Wed., April 24 - Spearfish Holiday Inn

Thurs., April 25 - Rapid City Rushmore Plaza Civic Center

Fri., April 26 - Fort Pierre AmericInn

Mon., April 29 - Aberdeen Dakota Events Center (Adjacent to the Holiday Inn Express, on Hwy 12)

Tues., April 30 - Watertown Ramkota

Wed., May 1 - Sioux Falls Ramkota

Thurs., May 2 - Sioux Falls Hilton Garden Inn

Please note that the Sioux Falls caravan dates are at TWO different locations.

Registration begins at 8:15 a.m. CLASS STARTS AT 9 AM and ends at 4 PM. As with all continuing education courses, the attendance policy is strictly enforced. Please plan your day accordingly to attend the entire class period. Late arrivals and early departures are disruptive and may jeopardize continuing education credit.

A paper registration form will be mailed to each brokerage office and is also available on the [SDREC website](#) for licensees who want to register by mail. **Online registration is highly encouraged and available by clicking [HERE](#)!** The licensee login is located in **RED** text in the middle of the SDREC home page—follow the login instructions to register for the class.

Registration Fees and Deadlines:

Early Bird Registration Fee: \$60 on or before Wednesday, April 17

(Online registration is only available through this date; mail-in registrations must be postmarked on or before this date). The Commission will retain \$10 of any refunded registration fee.

Late and On-site Registration Fee: \$70

Fair Housing: HUD Formalizes “Discriminatory Effect” Liability Test

(Used with Permission from ARELLO)

The U.S. Department of Housing and Urban Development (HUD) has formally adopted a “disparate impact” test for determining legal liability arising from alleged violations of the Fair Housing Act. The new evidentiary and procedural rules are based on the “discriminatory effect” of a given practice, regardless of whether it is neutral “on its face” or unintentional.

The Fair Housing Act was originally enacted as a part of the Civil Rights Act of 1968 and, as subsequently amended, is intended to address and combat segregation and discrimination in the sale or rental of housing and related advertising, lending and brokerage services. HUD is authorized to interpret and administratively enforce the Act, which does not itself specify a “discriminatory effects” standard for proving a fair housing violation. However, according to HUD’s rulemaking notice, both it and eleven of the twelve federal appellate courts have long interpreted the Act to impose liability arising from a facially neutral or unintentional practice that has a “discriminatory effect”. In its rulemaking notice, HUD says that evidentiary and procedural variations in the methodology of proving discriminatory effects have emerged from administrative and federal court decisions, thus necessitating a standard, nationwide rule that will eliminate uncertainty as to how conduct that has discriminatory effects violates the Fair Housing Act.

HUD’s final rules [amending 24 CFR Part 100] provide that, “A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin.” The rule establishes a three-part, burden-shifting test under which “The charging party or plaintiff first bears the burden of proving its prima facie case that a practice results in, or would predictably result in, a discriminatory effect on the basis of a protected characteristic. If the charging party or plaintiff proves a prima facie case, the burden of proof shifts to the respondent or defendant to prove that the challenged practice is necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. If the respondent or defendant satisfies this burden, then the charging party or plaintiff may still establish liability by proving that the substantial, legitimate, nondiscriminatory interest could be served by a practice that has a less discriminatory effect.”

The rule, which took effect on March 18th, also adds to and revises the illustrations of discriminatory housing practices that are found in HUD’s Fair Housing Act regulations. The rulemaking notice contains a detailed analysis of the background, legal authority and purpose of the new rule and is available through the U.S. Federal Register.

Fannie, Freddie Guidelines Make Deed-In-Lieu Transactions Easier

(Used with Permission from ARELLO)

New mortgage servicing guidelines that took effect on March 1st will make it easier for a broader range of struggling U.S. borrowers with Freddie Mac or Fannie Mae-backed mortgages to pursue “deed-in-lieu” transactions as a means of avoiding foreclosures.

In a deed-in-lieu transaction, the subject property is reconveyed to the lender and the borrower is often released from all, or most, of the existing mortgage indebtedness. Under the right circumstances, deed-in-lieu transactions can benefit both parties since borrowers can avoid the impacts of foreclosure and may experience less damage to credit ratings, while lenders can avoid the cost of foreclosure proceedings and other repossession expenses. Thus, deed-in-lieu transactions may make sense for borrowers who are “underwater” (owe more than their homes are worth), do not qualify for other foreclosure avoidance options, are delinquent in their payments or are facing bankruptcy. The new guidelines are the result of a directive issued last year by the Federal Housing Finance Agency (FHFA), which instructed the two government sponsored enterprises (GSEs) to streamline their foreclosure avoidance mechanisms.

While the GSEs' servicing standards previously have reserved deed-in-lieu "workouts" to homeowners who are on the brink of foreclosure, the new guidelines expand eligibility to all borrowers, across all levels of delinquency, if they meet certain criteria. For example, borrowers will be eligible if they are more than 90 days delinquent and meet one of several "hardship" criteria (unemployment or business failure, divorce, death of a borrower, disability, employment transfer, etc.); borrowers who are current on their mortgage loans or less than 90 days delinquent may qualify if there is a hardship involving death or disability; and, for mortgage loans that are current or less than 31 days delinquent, the subject property must also be the principal residence of a borrower whose defined expenses are greater than 55% of income.

As established by the respective GSEs, the new guidelines also simplify the applicable qualification and approval processes, increase the deed-in-lieu incentive paid to servicers from \$275 to \$1,500, offer qualifying borrowers with relocation assistance of up to \$3,000 and authorize payments to subordinate lien holders subject to certain conditions and thresholds. Borrowers who are able to do so may be required to contribute to mortgage debt/property value deficiencies. Fannie Mae's [Know Your Options](#) website and Freddie Mac's [Avoid Foreclosure](#) resource pages provide online tools to determine whether they own a particular mortgage loan and consumer-facing information about the new deed-in-lieu standards.

SDREC to Host Instructor Development Workshop

The SDREC will be offering an Instructor Development Workshop at the Governor's Inn in Pierre, June 5-6, 2013. This workshop is for instructors and those interested in becoming instructors.

Author, Distinguished Real Estate Instructor (DREI), and Certified Negotiation Expert Marie Spodek will be the facilitator for this year's workshop. Marie will help attendees take their teaching and course development skills to the next level and will offer tips on working with small groups and designing interactive breakout sessions.

There is no charge to participate in this workshop, other than personal travel expenses. Contact [Karen Callahan](#), SDREC Education Director, for more information or to sign up for the workshop.

New Licensees

Broker Associate

Bahm, Paula K - Yankton
Brenner, Brian J - Sioux Falls
Cady, Brandy N - Sioux Falls
Cain, Anthony - Spearfish
Chandler, Adam J - Harrisburg
Day, Katie - Sioux Falls
Deery, Larisa K - Harrisburg
DeMers, Kelsey - Rapid City
Doom, Kelsey - Wagner
Dyer, Linda D - Brookings
Foerster, Gail L - Rapid City
Hanisch, Bradley J - Sioux Falls
Hardy, Erin A - Tea
Hartman, Bruce - Sioux Falls
Herlyn, Heather J - Lennox
Jepsen, Shaley J - Sioux Falls
Kiihl, Jesse - Watertown
Kokenge, Brent A - Sioux Falls
Lee, Ellen J - Pierre

Marnette, Fredrick G - Warner
Meyer, Carissa M - Rapid City
Mueller, Carla R - Yankton
Mull, Richard D - Sioux Falls
Muller, Gregory A - Sioux Falls
Nelson, Anne M - Sioux Falls
Olivier, Randall J - Box Elder
Phipps, Lynelle - Watertown
Promes, Wanda J - Sioux Falls
Quinn, Theodore "Ted" D - Yankton
Rozeboom, Kyle A - Harrisburg
Rust, Cindy - Sioux Falls
Schiefelbein, Brittney L - Pierre
Sergeant, Jared - Sioux Falls
Sheridan, Michael - Huron
Stephens, Traci - Sioux Falls
Svartoiien, Lucas - Brookings
Thompson, Nicholas L - Canton
Voller, Alan A - Bison
Wilson, Ken D - Lemmon

Broker

Bishop, Tonya S - Fargo, ND
 Carlson, Kristi M - Libson, ND
 Coyne Jr., Michael R - Westlake, OH
 Fitzgerald, John M - Rapid City
 Kusztelak, Edward J - Long Grove, IL

Property Manager

Bielfeldt, Daniel - Brookings
 Carlson, Jennifer L - Spearfish
 Chapman, Rita J - Hill City
 Erlandson, Michelle M - Whitewood
 Hollingshead, Mary K - Sioux Falls
 Tomovick, Cory J - Rapid City
 Wordeman, Robert G - Rapid City

Residential Rental Agent

Cooper, Theresa - Sioux Falls
 Dixon, KaCey - Sioux Falls
 Geres, Heather N - Sioux Falls
 Newman, Jerry L - Rapid City
 Sandbulte, Machele R - Sioux Falls
 Sigala, Monica - Saint Francis
 Spellmeyer, Allison - Sioux Falls

Salesperson

Glaser, Shelley D - Okabena, MN
 O'Neal, Scott A - Crofton, NE

Registered Home Inspector

Bolen, Justin J - Sioux Falls

Expired Licenses The following is a list of people whose licenses expired on December 31, 2012 and have NOT been renewed as of 3/20/12. If your name appears on the list and you wish to reinstate the license, please contact the Commission office.

Broker Associate

Anderson, Gary E - Houston, TX
 Anderson, Verdelle F - Lake Norden
 Andrew, Peter M - Lawrence, KS
 Ballinger, Kay L - Hill City
 Barthel, Jeffrey L - Lead
 Beard, Joan D - Rapid City
 Benitez, Leonardo - Sioux Falls
 Benson, Larry A - Yankton
 Berkenpas, Faye E - Adrian, MN
 Brandsted, Valerie A - Rapid City
 Buhl, Kim J - Pierre
 Casey, John B - Rapid City
 Chicoine, Lindsay M - Volga
 Cihak, Shelby L - Spearfish
 Colgan, Brian - Hermosa
 Coy, Laurie J - Rapid City
 Daniels, Gladys G - Sioux Falls
 Delzer, Judith A - Spearfish
 Dockter, Chad A - Watertown
 Dreyer, Brian E - Yukon, OK
 Dummer, Heath B - Kearney, NE
 Duncan, Raphael C - Aberdeen
 Eastman, Dan - Brandon
 Elliott, Lora G - Yankton
 Engelstad, Brandon - Hendricks, MN
 Fahrendorf, Eric M - Sioux Falls
 Feenstra, Julie - Corsica
 Feldman, Cary S - Sioux Falls
 Fenske, Corissa M - Mandan, ND
 Fitts, Cindy K - Brandon
 Fleming, Jeremy J - Sioux Falls
 Freeze, Jill T - Ellensburg, WA
 Frohling, Joel - Groton
 Galles, Stephen B - Rapid City
 Gerken, John C - Rapid City

Goldstine, Cassidy A - Sioux Falls
 Goodsell, Janice M - Spearfish
 Gourley, Richard W - Sioux Falls
 Grimsrud, Marilyn J - Rapid City
 Hassebrook, Kathleen A - Pierre
 Henrickson, Linda M - Rapid City
 Higman, Lily S - San Diego, CA
 Hollan, Marcia J - Rapid City
 Hornstra, Robert G - Sioux Falls
 Huber, Darcy L - Morgan, MN
 Huhnerkoch, Kim J - Lead
 Isaacs, L Elaine - Belle Fourche
 Isaacs, Nicholas W - Belle Fourche
 Jarman, Evangeline (Vangie) - Sioux Falls
 Jensen, Derek L - Watertown
 Jensen, Judith A - Beresford
 Johnsen, Mark C - Miller
 Johnson, Michael D - Box Elder
 Kanable, Sarah M - Harrisburg
 Ketterhagen, Machele M - Tea
 Kittler, Randy P - N. Sioux City
 Kohn, Inge - Spearfish
 Koob, Holly F - Sioux Falls
 Korkow, Sandra K - Springfield
 Kuiper, Randall L - Sioux Falls
 Labella, Paige M - Cedar Falls, IA
 Larsen, Jason C - Sioux Falls
 Larsen, Sean M - Sioux Falls
 Larsen, Travis J - Sioux Falls
 Leibel, Marty - Marietta, GA
 Lewis, Michael E - Rapid City
 Lindgren, Jodine L - Nemo
 Lindholm, Katie A - Buffalo
 Lovett, Deanna F - Sioux Falls
 Lucero, Derek A - Lead
 Malloy, Rachel T - Sioux Falls

Broker Associate

Maloney, Michelle M - Vermillion
 Marx, William D - Rapid City
 McCulloch, Corrine L - Milbank
 McPherson, Kevin D - Rapid City
 Meisner, Kelsey R - Rapid City
 Miller, Ward L - Canton
 Moe, Keith G - Woonsocket
 Moore, Christine D - Yankton
 Mueller, Ambre M - Milford, IA
 Olson, Tara L - Sioux Falls
 Opsal, Denise B - Sac City, IA
 Orr, Michael C - Sioux Falls
 Ossefoort, Becky L - Luverne, MN
 Pals, Thad A - Sioux Falls
 Pap, Michael A - Sioux Falls
 Pearson, Michelle M - Sioux Falls
 Peschong, Stephen M - Mitchell
 Peterreins, Amber D - Sioux Falls
 Petersen, Matthew S - Sioux Falls
 Pigsley, Steven L - Black Hawk
 Pisciotto, Janet Faye - Lead
 Porter, Joann G - Albion, NE
 Reuter, Brock - Sioux Falls
 Scheetz, Russell J - Rapid City
 Schepers, Molly L - Lead
 Schutte, Melissa R - Canton
 Schwab, Carl F - Andover
 Sexton, Katie E - Sioux Falls
 Sexton, Timothy R - Rapid City
 Shipley, Jeffry L - Bridgeport, TX
 Smit, David D - Mesa, AZ
 Sommer, Alois B - Hill City
 Spies, Tyrone R - Watertown
 Stoltenburg, Harold L - Rapid City
 Sumners, Katherine E - Belle Fourche
 Thill, Stuart J - Sioux Falls
 Thomas, James J - Watertown
 Timmerman, Michael L - Sioux Falls
 Tjeerdsma, Jerralynne E - Sioux Falls
 Trandahl, Arden J - Spearfish
 Ukkonen, Colleen A - Custer
 Urban, Travis J - Sioux Falls
 Van Liere, Dan D - Alexandria, MN
 VanOverschelde, Crystal A - Huron
 Wagner, Christy M - Fargo, ND
 Waltjer, Angela P - Sioux Falls
 Warfel, Brenda S - Rapid City
 Wehrkamp, Jr., Michael - Sioux Falls
 White, Andrea N - Wakonda
 Whitecalf, Coy - Rapid City
 Wiese, Charles T - Sioux Falls
 Wilson, Dean M - Renner
 Wing, Jeanne M - Rapid City
 Woods, Joleen A - Yankton
 Yost, Jenivieve M - Piedmont

Brokers

Arndt, Amy L - Sioux Falls
 Blain, Thomas G - Hermosa
 Clark, Lary J - Mondamin, IA
 DeSchepper, Wendy M - Sioux Falls
 Dover, Robert E - Norfolk, NE
 Elliott, Michael - Bozeman, MT
 Fink, Clara I - Sioux Falls
 Fortak, Dorothy A - Spearfish
 Frederiksen, Luana J - Yankton
 Gass, Jared - Brookings
 Graff III, Gordon - Sioux Falls
 Heintz, Carol A - Highmore
 Hoffman, Andrew J - Atkinson, NE
 Homan, Ralph D - Mitchell
 Hoth, Dennis J - Omaha, NE
 Hough, Glen L - Shepherd, MT
 Jaeger, Colleen K - Geddes
 January, Deanna E - Hastings, NE
 Jordan, Patricia J - Minneapolis, MN
 Kelly, Brett C - Kalispell, MT
 Kinstad, Lester A - Sioux Falls
 Menke, Jayson R - Grand Forks, ND
 Montag, Mark R - Burnsville, MN
 Ronan, Terry J - St. Augustine, FL
 Sanchez, Fred A - Troutdale, OR
 Stoltenburg, Gregory - Grand Forks, ND
 Stone, Marlon E - Burnsville, MN
 Stowe, Allan V - St. Augustine, FL
 Straw, Mike W - Troutdale, OR
 Swanson, Cal E - Clear Lake
 Torkelson, Robert D - Highland Park, IL
 Uhre, Judson D - St. Cloud, MN
 Urdiales, Danny - Pipestone, MN
 Votel, Henry M - Hamill
 Weinberg, Steven L - Fergus Falls, MN
 Weinzettl, Michelle M - Waterbury, CT
 Wolsky, Charles A - Fort Morgan, CO
 Woodward, Bart A - Forest Lake, MN

Property Manager

Archambeau, Laura - Centerville
 Bagby, Randy M - Rapid City
 Conrad, Christine M - Sioux City, IA
 Harris, Tara K - Hill City
 Hauser, Erin H - Black Hawk
 Merchen, Jacob D - Sturgis
 Meyer, Debra J - Sioux Falls
 Nelson, Kimberly L - Sioux Falls
 Schmidt, Mark - Sioux Falls
 Smith, Stacy R - Warner
 Steffensen, Sarah A - Arlington
 Wendell, Gregory A - Pierre
 Wilkinson, William M - Denver, CO
 Zueger, Jody A - Bath

Expired Licenses, continued

Auctioneers

Hahn, Richard T - Hartford
Henry, Dallas C - Highmore
Thomas, Timothy J - Chamberlain

Home Inspector

Cole, Robert W - Rapid City
Dewsbury, Michael B - Custer
Drapeaux, Bruce - Spearfish
Gardner, Kirby L - Watertown
Harklau, Rod - Humboldt, IA
O Grady, Robert W - Tyndall
Rippe, Delbert L - Mitchell
Schipper, Wyatt - Sioux Falls
Thompson, Bradley J - Mitchell
Trowbridge, Luke S - Vermillion
Walsh, Thomas W - Ponca, NE
Wieker, Tim - Sioux Falls

Residential Rental Agent

Anderson, Michelle - Hill City
Bassett, Holly N - Watertown
Battey, Emily R - Sioux Falls
Biggar, Jodi L - Brookings
Blumke, Sandra L - Brookings
Collins, Stacy A - Astoria
Davidson, Stephanie I - Eagle Butte
Dillman, Nina - Mobridge
Dougherty, Chelsea M - Sioux Falls
Fodness, Nichole A - Sioux Falls
Gabriel, Kari S - Fort Pierre
Heiden, Tracey L - Sioux Falls
Hubert, Justin R - Sioux Falls
Jandera, Carol J - Sioux Falls
Janssen, Virginia A - Elkton
Jochum, Sanya - N. Sioux City
Johnson, Jill M - Spearfish
Johnson, Linda D - Harrisburg
Kisecker, Constance S - Sioux Falls
Limoges, Erica L - Renner
Long, LaQuita - Sioux Falls
Marlow, Michelle K - Sioux Falls
Mauszycki, Mallory - Sioux Falls
Novak, Sarah C - Sioux Falls
Rabine, Patricia S - Sioux Falls
Sandberg, Mavis O - Sioux Falls
Scoular, Leah C - Rapid City
Sheridan, Vanessa A - Sioux Falls
Silva, Stefanie E - Sioux City, IA

Stark, Nancy - Sioux Falls
Stephens, Julie K - Hartford
Tracy, Chrystine - Worthing
Wilson, Julie K - Sioux Falls

Salesperson

Archer, Shelly R - Sioux City, IA
Bellgardt, Jeffrey S - Nacogdoches, TX
Burkett, Janet K - Sioux City, IA
Calhoun, Micheal D - Brookfield, MO
Cote, Emily - Phoenix, AZ
Crull, Jeffery L - Sioux City, IA
Cunningham, William P - Pipestone, MN
Daly, Gerard M - Papillion, NE
DeBuse, Lawrence J - West Des Moines, IA
Dougherty, Patsy A - Sioux City, IA
Dover, Ann B - Norfolk, NE
Effertz, Neil M - Bismarck, ND
Frost, Catherine A - Merrill, IA
Gabriel, Lowell G - Alden, MN
Gergeni, Mary Lou - Le Mars, IA
Gonzalez-Gaytan, Lillyan - Sergeant Bluff, IA
Grindberg, Della D - Sioux City, IA
Hiserote, Chanthala - S. Sioux City, NE
Imig, Sarah S - Sioux City, IA
Keane, Thomas R - Sioux City, IA
Lang, Jr., William E - Farmington, NM
Martish, Kenneth R - Mount Vernon
Mathison, Wade A - Sergeant Bluff, IA
Milligan, Troy R - Spearfish
Reiners, Melanie M - Milbank
Rix, Kimberley A - Verdigre, NE
Roetman, Michael R - Sioux Center, IA
Roetman, Ryan R - Hospers, IA
Schmidt, Dennis - Gaylord, MN
Swanson, Kevin L - Ivanhoe, MN
Thomas, Carol J - Yankton
Wendell, Gregory A - Pierre
Wudel, Patricia A - Parkston

Timeshare Agent

Askland, Lauren M - Rapid City
Iams, Miriam C - Fort Collins, CO
Kirchner, Joshua - Lennox
Maude, Jaqueline R - Hermosa
McMacken, Ilze - Rapid City
Reub, Kasey - Rapid City
Tubbs, Amber C - Oral

Appraiser Update

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New Council Members

The Appraiser Certification Program is pleased to announce that John McMahon of Farm Credit Services of America and Allan Husby of Husby Appraisal have been appointed by Pam Roberts, the Department of Labor and Regulation Secretary, to the Advisory Council effective January 1, 2013. Mr. McMahon serves as an institutional staff appraiser member and Mr. Husby serves as a State-Certified General Appraiser of Eastern South Dakota.

Senate Bill 60 Passes Legislature

The Department of Labor and Regulation, Appraiser Certification Program introduced legislation to revise certain definitions. The Bill has passed through the 2013 Legislature and was signed by the Governor on March 12. The revised definitions will take effect on July 1, 2013.

Section 1 defines “appraisal practice,” which is currently not defined in statute. This will provide the Appraiser Certification Program jurisdiction and authority for effective supervision of appraisers that perform appraisal review and appraisal consulting assignments.

Sections 2 and 3 amend Chapter 36-21B and 36-21D to revise the definition of “appraisal” in statute to conform with the nationally recognized definition in the Uniform Standards of Professional Appraisal Practice and the definition in the administrative rules regarding appraisers (ARSD 20:14:01:01).

The Appraiser Certification Program Advisory Council unanimously recommended this legislation.

For the full text of the bill, please visit <http://legis.state.sd.us>. If you have any questions, please contact Sherry Bren at 605.773.4608 or sherry.bren@state.sd.us.

New Licensees – January/February 2013

Kyle Nelson, State-Certified General – Fargo, ND
William L. Rodrique, State-Certified Residential – Bloomington, MN
John A. Kilpatrick, State-Certified General – Seattle, WA
Barrie A. Jacobson, State-Licensed – Bloomington, MN
Janet L. Nelson, State-Certified Residential – Blaine, MN
Kristin M. Nattress, State-Registered – Lead, SD

Upgrades Issued March 2012 through February 2013

Steven Jones, State-Certified Residential
Alex Protsch, State-Licensed
Jed Klein, State-Licensed
Michael Toates, State-Licensed
Dawn Puckett, State-Licensed
Alissa Cavanaugh, State-Licensed
Michael Haeder, State-Certified General

South Dakota Real Estate Commission

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South Dakota Appraiser Certification Program

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Fax: 605.773.5369

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Department of Labor and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, SD 57501 or e-mail – Sherry.Bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03))

The following disciplinary actions have been taken by the Department of Labor and Regulation, Appraiser Certification Program:

Raymond E. Meligan, Fort Pierre, South Dakota – Complaint Case # 11-388.

The Department of Labor and Regulation entered into a Consent Agreement on January 22, 2013 suspending the State-Certified General Appraiser Certificate of Raymond E. Meligan. The suspension commenced on January 22, 2013. Mr. Meligan's certificate remains suspended until the terms and conditions of the Consent Agreement are met.

Thomas P. Smith, Rapid City, South Dakota – Complaint Case # 11-394.

The Department of Labor and Regulation entered into a Consent Agreement on January 24, 2013 suspending the State-Licensed Appraiser Certificate of Thomas P. Smith. The suspension commenced on January 24, 2013. Mr. Smith satisfied the terms and conditions of the Consent Agreement. Mr. Smith's certificate was reinstated January 28, 2013.

Review of Cases – January 1, 2013 through March 8, 2013

For the period January 1, 2013 through March 8, 2013, the Department has initiated five complaint investigations. (There have been no upgrade applications received during this period.)

Complaints – Five cases pending.

AMCs – Issued Registration in South Dakota October through February

Appraisal 2U, LLC
Appraisal Links
Appraisal Nation, LLC

Appraiservendor.com, LLC
B Mortgage Services, LLC
Collateral Intelligence, LLC

AMC – No Longer Doing Business in South Dakota

National Real Estate Information Services

Inspecting the Subject Property

[Article Reprinted Courtesy of the North Carolina Appraisal Board 'Appraisereport' Volume 22 September 2012 Number 2]

There has been an alarming rise in the number of cases involving an appraiser who signed an appraiser report and did not note that another person provided significant professional assistance. In some instances it has been a trainee who provided the assistance, but in others it is another appraiser. USPAP requires that anyone who provides significant real property appraisal experience must be noted in the report. Failing to note the assistance of a trainee in a report will result in the denial of experience credit for the trainee and may result in disciplinary action for the appraiser.

Board staff has seen repeated instances where trainees and other appraisers have performed the inspection of the subject property, but the supervising appraiser is the only one to sign the appraisal report. In some cases there may be a mention about the trainee or other appraiser providing assistance, but no mention is made in the report that the trainee or other appraiser was the only one to inspect the property. This is a violation of USPAP and Appraisal Board rules.

There are some clients who will not accept an appraisal report if a trainee signs it, or if it is signed by an appraiser who is not on their list of approved appraisers. If the trainee or other appraiser who works on the preparation of the appraisal does not sign the report, the supervising appraiser must make a full disclosure in the report as to who provided assistance and provide a detailed explanation of the extent of the assistance. This information can appear in an addendum, as long as the addendum is incorporated into the appraisal report and sent to the client.

If an appraiser signs the report that indicates the appraiser inspected the subject property when he or she did not, the appraiser will be sanctioned.

If the Board receives an appraisal report in support of experience credit that is not signed by the trainee or appraiser, or does not contain the appropriate information regarding the assistance provided by the trainee or appraiser, experience credit will be denied. The Board will also pursue disciplinary action against the supervising appraiser for failure to comply with USPAP and Board Rules.

Failure to Disclose Significant Appraisal Assistance in the Certification

Standards Rules 2-3 of the Uniform Standards of Professional Appraisal Practice (USPAP) requires that each real property appraisal report must contain a signed certification that includes certifications that are similar in content as printed in the USPAP. One of the certifications required is as follows:

No one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

The Comment in Standards Rule 2-3, states in part:

The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 2-2(a), (b), or (c)(vii), as applicable.

There are clients that require appraisers to use pre-printed certification forms. If an appraiser is using a pre-printed form that cannot be revised to include the name of the individual(s) providing significant real property appraisal assistance, the mandatory disclosure may be added as an additional certification on a separate page. The additional certification page must be signed and contain the correct certification language. The additional signed certification page must be included in the appraisal report that is submitted to the client.

Communicating with an Appraiser By Nikole M. Avers, Executive Director, Tennessee Real Estate Appraiser Commission (Used with permission)

The economy and the related mortgage lending crisis have led to many changes in the lending and real estate appraisal industry. As the director of the TN Real Estate Appraiser Commission, I take a lot of calls from appraisers and users of appraiser services pertaining to these changes. Questions pertaining to changes resulting from the Home Valuation Code of Conduct (HVCC) which developed into the Appraiser Independence Requirements (AIR), federal changes with the Dodd-Frank Wall Street Reform and Consumer Protection Act, Title XIV - Mortgage Reform and Anti-Predatory Lending Act, the Fed's Regulation Z (the regulation used to implement various sections of the Truth in Lending Act), regulation of Appraisal Management Companies

and changes in the FHA requirements. Whew! After all that it is easy to be confused and feel the need to catch your breath. One issue keeps rising to the surface again and again- how to communicate with an appraiser in the aftermath of all the changes we have gone through in the past two years.

Appraisal independence has been at the heart of almost every substantive change that affects users of appraiser services. Federal law, State law, and secondary market requirements have long had requirements pertaining to appraisal independence. The mortgage crisis and the difficult economic climate have caused the market participants to establish additional safeguard requirements to preserve this independence. From these requirements many myths were born. Do the changes mean you can't talk to an appraiser? No. Communication is critical to the appraisal process – entire appraisal standards are devoted to it – and communication is not a one way street.

USPAP requires that an appraiser protect the confidential nature of the appraiser-client relationship. The appraiser must not disclose confidential information or assignment results to anyone other than the client, persons authorized by the client to receive this information; state appraiser regulatory agencies, third parties authorized by due process of the law, or authorized peer review committees. See USPAP ETHICS RULE – Confidentiality Section, and the DEFINITIONS section for Assignment Results and Confidential Information for more detail. This requirement pertains to what an appraiser may communicate to others, not what information users of appraisal services may transmit to the appraiser.

Many have misinterpreted the HVCC requirements to have banned mortgage loan officers and real estate agents from speaking with a real estate appraiser. Some have indicated that FHA prohibits communication with real estate appraisers. Still others believe there is a prohibition in federal law, but there isn't. There are requirements to preserve appraiser independence and protect the public.

There is no prohibition for communicating with a real estate appraiser. FHA specifically requires that the lender and the appraiser “avoid even the appearance of a conflict of interest, which would include providing the appraiser anything of value in consideration of returning the appraisal at a given value,” and “that (the lender) may not condition continued selection of an appraiser on inflating values or disregarding repair requirements.” For a more detailed list of prohibited activities by FHA concerning appraiser independence, please visit their website and read mortgage letter 09-26:

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/09-28ml.pdf>

The HVCC did not prohibit communication with a real estate appraiser, it required the loan production staff not have “substantive communications with an appraiser or appraisal management company relating to or having an impact on valuation, including ordering or managing an appraisal assignment.” The loan production staff and the staff of an appraisal management company may communicate with the appraiser to correct factual errors on the appraisal report. The HVCC did not prohibit real estate agents or brokers from communicating with an appraiser. They are allowed to communicate with an appraiser as long as the communication was not done in a way intended to influence the outcome of the appraisal. Appraisers may receive information from others on information pertaining to the subject and market data information such as: relevant property information such as condition, improvements, deferred maintenance and amenities; income and cost data; closed and pending sales data; conditions of sale and seller concession information; and builder or inspection information. The HVCC pertained only to 1-4 family loans that lenders sold to Fannie Mae or Freddie Mac. The Federal Housing Finance Agency (FHFA), Fannie Mae, Freddie Mac and others developed the Appraiser Independence Requirements (AIR) which replaced the HVCC on October 15, 2010.

Fannie Mae issued a FAQ on these changes in November of 2010, a link to that FAQ can be found at: <https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/pdf/airfaqs.pdf>

Recommendations for Communicating with an appraiser:

- 1) Communicate by e-mail or written correspondence whenever possible. Written communication has the benefit of documenting the exchange between an appraiser and a user of appraisal services. You may wish to indicate you are communicating by letter or e-mail to preserve the appraiser's independence. It is not a violation to place a phone call to an appraiser, but in my experience you will have more success if the communication is in writing, especially if you do not have an established professional relationship with the appraiser.
- 2) Determine your objective before you begin writing. Take your time with the correspondence to ensure only the specific and necessary information is communicated. Be brief and to the point.
- 3) Be professional. Whenever possible, use appropriate terminology to the lending and real estate industry. This will set the tone for a professional response. No one expects you to be 100% knowledgeable of appraisal methodology or techniques, but if you can specifically identify the areas of concern, the appraiser will be able to respond to your specific concerns. Avoid sending off emails or letters before proof-reading them for spelling accuracy and tone.
- 4) Don't send an angry e-mail or letter to an appraiser. It won't likely help the situation if the appraiser finds the communication offensive or disrespectful. Sending an e-mail in all capital letters can set the tone that you are "yelling" at them. If you wish to dispute information contained in an appraisal report, be specific and professional. Mistakes can happen and my experience is that a professional will want to correct an error.
- 5) Avoid opining on the "value" of the property. Rendering an opinion of value is the reason the appraiser was engaged. Telling an appraiser what you think the value of a property should be will be the fastest way to have them close the communication door. Do not communicate in a manner that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.
- 6) Just the facts. If you have information you want the appraiser to consider, present it as information. Acknowledge in your correspondence that it is the appraiser's decision to determine if the information is relevant to the appraisal assignment.
- 7) If an appraiser is hesitant to respond to communication, reference the specific independence requirements pertaining to the transaction. For example, if the appraisal is an FHA appraisal, provide them with the link to the above mortgage letter on appraisal independence. If the appraisal is for Fannie Mae or Freddie Mac reference the link to the above Fannie Mae frequently asked question link on appraisal independence. Many appraisers have fallen victims to the myths created pertaining to appraiser communication; they may not know their specific allowances for communication.
- 8) Be patient. If you want a well thought out response or reconsideration, it may take time. If you are concerned about them not receiving your information, you may want to indicate in your communication, "Please let me know you have received this inquiry/information and, if possible, a time frame for your response."

As an appraiser, a lender's review appraiser, and as a regulatory official, I have been privy to both sides of the conversation. Appraisers communicate for a living; the tricky part is knowing how to start the conversation. I hope the above tips help in beginning that conversation.

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